

Remarks/Arguments

This amendment is in response to the Office Action dated October 31, 2005.

Claims 1 and 3 - 6, and 14-19 remain in this application. Claims 2 and 7 - 13 have been canceled. New claims 20 - 21 have been added to further define the present invention. Support for the claims are found throughout the specification and the originally filed claims.

Claim 14 has been rejected under 35 USC 102(b) over Root (US 5,650,323)

Applicants disagree.

The present claim relates to a multiwell filtration and collection plate system for use in centrifugal filtration applications having a centrifuge, the filtration plate mated to the collection plate and an evaporation control device in the form of a cover having a skirt extending below the interface of the two plates.

Root relates to a cell culture plate system for growing cells. It fails to teach or suggest the use of a centrifuge or centrifugal filtration.

As the standard for anticipation is one of strict identity and "the reference must teach every aspect of the claimed invention either explicitly or inherently." (MPEP section 706.02IV, lines 6 and 7) and the cited reference has failed to teach the claimed elements of the claim, this reference is not and cannot be an anticipatory reference. As such, the rejection based on 35 USC 102(b) is respectfully requested to be withdrawn as it fails to provide a reference which contains all of the claimed elements of the present claims and therefore no basis for rejection under 35 USC 102 has been properly made.

Claims 1-4 have been rejected under 35 USC 102(b) by Kedar et al. Applicants disagree.

As the standard for anticipation is one of strict identity and "the reference must teach every aspect of the claimed invention either explicitly or inherently." (MPEP section 706.02IV, lines 6 and 7) and the cited reference has failed to teach the claimed elements of the claim, this reference is not and cannot be an anticipatory reference. As such, the rejection based on 35 USC 102(b) is respectfully requested to be withdrawn as it fails to provide a reference which contains all of the claimed elements of the present claims and therefore no basis for rejection under 35 USC 102 has been properly made.

The office action states spacer plate 66 is a sheet material with a series of holes in register with the top (non-filter) plate and collection plate with its holes being slightly larger than the holes in the plates. Applicants disagree with this assertion.

Clearly the spacer plate is not a sheet. Moreover, the spacer plate of the reference does not have the required element of having the number of holes being equal to the number of wells in the filter and collection plate. As clearly stated in the cited portion of the reference, the spacer plate has one hole for each 9 wells in the top plate. Lastly, the holes in the spacer plate are much larger than the holes in the top plate in order to accommodate the 9 wells of the top plate per one hole in the spacer plate making the rejection of the limitation "slightly larger" unsupported by the teachings of the reference.

Likewise the office action states that the capillary holes (although element 58 [beads] is cited, it is assumed the action meant element 60) are equivalent to and used in place of filters. Applicants disagree.

The portion of text cited for this proposition (Column 9, lines 3-42) specifically states at lines 25-27:

"The term "capillary hole" is understood not to apply to filters, frits or similar devices which rely on a meshwork of non-discrete pores to separate solids from liquids." (Applicants emphasis).

A clearer contrary teaching to the assertion in the office action is unlikely ever to be found. As such, it is respectfully requested that the rejection based upon this unsupported and contrary assertion be withdrawn as being unsupported and contrary to the facts of the case.

Lastly, the spacer plate of the reference is not taught as having any evaporation control effect nor would it inherently have such an effect.

Claims 1-3 are rejected under 35 USC 102(b) over Root (US 4,948,564). Applicants disagree.

The element 64 is a cover for a vacuum manifold. It has a wall 66 that mates with the corresponding wall 68 of the manifold base 62. Moreover, the reference fails to teach the use of a centrifuge as required. Instead it specifically teaches using vacuum for the filtration.

As the standard for anticipation is one of strict identity and "the reference must teach every aspect of the claimed invention either explicitly or inherently." (MPEP section 706.02IV, lines 6 and 7) and the cited reference has failed to teach the claimed elements of the claim, this reference is not and cannot be an anticipatory reference. As such, the rejection based on 35 USC 102(b) is respectfully requested to be withdrawn as it fails to provide a reference which contains all of the

claimed elements of the present claims and therefore no basis for rejection under 35 USC 102 has been properly made.

Claims 5-13 and 19 have been rejected under 35 USC 103(a) over Root '564 in view of Root '323. Applicants disagree.

The office action claims it would have been obvious to use the cover of Root '323 in Root '564 which teaches a cover (202).

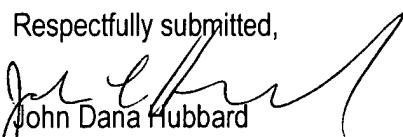
The Root '564 embodiment cited is a pressure manifold and the cover (202) is specifically designed to allow for easy access to the wells of the device when not in use. (see Col 7 ,line 59 - Col. 8, line 6). Moreover it is held by a series of bolts and springs so as to be closed and held to the lower plate during the positive pressure filtration.

One of ordinary skill in the art would find no suggestion or motivation to use the cover of Root '323 in the invention of Root '564 as to do so would interfere with the ability 'to facilitate loading and unloading of the filter strip' of the Root '564 patent. (see Col 7 ,line 68-Col. 8, line 1). The covers are used for two different things and would not have been interchangeable to one of ordinary skill in the art.

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Reconsideration and allowance of the remaining claims is respectfully requested in view of
the foregoing amendment and remarks.

Respectfully submitted,


John Dana Hubbard

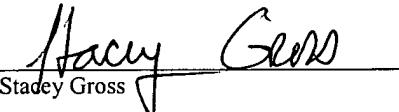
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